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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/125,814	08/26/1998	MASAHICO DOHI	Q51505	8214

7590 02/15/2002
SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE N W
WASHINGTON, DC 20037

EXAMINER

BERMAN, ALYSIA

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 02/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/125,814

Applicant(s)

DOHI ET AL.

Examiner

Alysia Berman

Art Unit

1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-98 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 46-98 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Election/Restrictions

1. Receipt is acknowledged of the amendment and Declaration filed October 22, 2001. Claims 19-32, 34 and 36-45 have been canceled. Claims 46 and 48-50 have been amended. Claims 51-98 have been added. Claims 46-98 are pending. The amendment will be considered insofar as it reads on the elected invention in response to this restriction requirement.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 51, 67, 68, 71, 72, 75, 91, 92, 95 and 96, drawn to a powdery composition obtained by mechanical mixing, classified in class 424, subclass 499.
 - II. Claims 52 and 76, drawn to a powdery composition obtained by freeze-drying, classified in class 424, subclass 499.
 - III. Claims 53, 70, 74, 77, 94 and 98, drawn to a powdery composition obtained by dissolving or dispersing the components in an organic solvent, classified in class 424, subclass 499.
 - IV. Claims 54-56 and 78-80, drawn to a powdery composition obtained by making the average particle diameter of the water-absorbing and water-insoluble base material larger than that of the water-absorbing and gel-forming base material, classified in class 424, subclass 499.
 - V. Claims 69, 73, 93 and 97, drawn to a powdery composition obtained by dissolving or dispersing the components of the composition in an aqueous solution, classified in class 424, subclass 499.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I, II, III, IV and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are unrelated because they are different products obtained by different methods.
4. Because these inventions are distinct for the reasons given above and the search required for each of the Groups is not required for the other Groups, restriction for examination purposes as indicated is proper.
5. Claims 46-50, 57-66 and 81-90 link(s) inventions I-V. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s), claims 46-50, 57-66 and 81-90. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

6. A telephone call was made to Bruce Kramer on January 25, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Correspondence


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alysia Berman whose telephone number is 703-308-4638. The examiner can normally be reached Monday through Friday between 9:00 am and 5:00 pm.

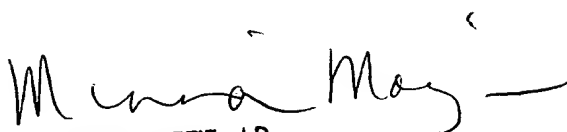
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie, can be reached on 703-308-4612. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 or 703-872-9307 for after-final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234 or 703-308-1235.


Alycia Berman
Patent Examiner
February 13, 2002


MINNA MOEZIE, J.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600